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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,079	09/29/2003	James N. Guichard	13522/137	2172
757	7590	08/04/2009	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			BLAIR, DOUGLAS B	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/674,079	GUICHARD ET AL.
	<b>Examiner</b> DOUGLAS B. BLAIR	<b>Art Unit</b> 2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 07 April 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,3-13,15-24,27 and 28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-13,15-24,27 and 28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date 0/10/2009
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments, see Remarks, filed 6/16/2008, with respect to the rejection(s) of claim(s) 4 and 16 under 35 USC section 112 2nd paragraph have been fully considered and are persuasive. Therefore, the rejection has been withdrawn and these claims are now objected to as containing subject matter that would overcome the prior art of record.

The applicant's arguments with respect to Balay are not persuasive. The applicant's previously claimed limitation from claim 2 does not distinguish from Balay because it only recites that a second client receives traffic from the first client via the first node and the second node. This limitation is broad enough to cover any interaction involving routing on a network. The rejection of claims 4 and 16 in view of Balay are withdrawn as Balay does not explicitly teach those scenarios.

Also, the applicant did not address the 102 rejection based on WO 03/073707 by Backman et al. (See page 7 of the 3/18/2008 office action) This rejection was based on an international search report that the applicant submitted as IDS. Until the applicant explains why the claims are patentable over the rejection supplied by the search report the rejection will be maintained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 5-13, 15, 17-24 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 7,116,665 to Balay et al.

As to claim 1, Balay teaches a method in a network supporting virtual network connections associated with clients communicating through a first node, a method comprising: maintaining separate upstream routing policy information and downstream policy information at the first node, the upstream routing policy information being used at the first node to identify a second node to forward upstream traffic received from at least a first client communicating through the first node (col. 5, lines 30-48), the downstream routing policy information being used at the first node to forward downstream traffic received from a node to at least the first client (col. 5, lines 48-55); and for traffic transmitted by the first client through the first node, preventing use of the downstream policy routing information to route the traffic and instead utilizing the upstream routing policy information in the first node to ensure forwarding of the traffic transmitted by the first client from the first node to the second node (col. 5, lines 30-48), and; wherein the traffic transmitted by the first client through the first node intended for receipt by a second client is forwarded to the second node (col. 7, line 62-col. 8, line 2, the participants are considered clients and the different SP's are considered second nodes).

As to claim 3, Balay teaches method as in claim 1 further comprising: receiving a session initiation request from a second client to establish a session to communicate through the first

node (col. 5, lines 48-55, the Balay invention allows for multiple users using various PE systems); from an address server, obtaining network address assignment information for the first client that generated the session initiation request, the assignment information including network address information to be used for identifying the second client (col. 5, lines 1-13); and populating the downstream routing policy information at the first node to include the network address information identifying the second client (col. 5, lines 48-55).

As to claim 5, Balay teaches a method as in claim 4 further comprising: based on routing policy information at the second node, establishing a return path between the second node and the first node on which to forward the network messages to the first client through the first node (col. 6, lines 42-61).

As to claim 6, Balay teaches a method as in claim 1 further comprising: based on use of the upstream routing policy information and downstream policy information at the first node, establishing a VPN (Virtual Private Network) connection between the first node and the second node on which to forward traffic from the first client (col. 6, lines 42-61).

As to claim 7, Balay teaches a method as in claim 1, wherein the second node is part of a service provider network and the traffic between the first and second node is at least partly supported by a core network supporting a label switching protocol (col. 6, lines 10-20).

As to claim 8, Balay teaches a method as in claim 1, wherein the upstream routing policy information and downstream policy information at the first node are each half duplex VRFs (virtual Routing and Forwarding Instances, supporting forwarding of network messages

generated by multiple clients communicating with each other through the first node and the second node (col. 6, lines 21-41).

As to claim 9, Balay teaches the method as in claim 1 further comprising: at the second node, applying a target-specific packet processing technique to the traffic from the first client forwarded through the second node (col. 5, lines 30-48).

As to claim 10, Balay teaches the method of claim 1 further comprising: populating the downstream policy information at the first node with network address information of each new client associated with a given service supported by a corresponding service provider (col. 5, lines 1-13).

As to claim 11, Balay teaches the method as in claim 10 further comprising: after the downstream policy information is populated in the first node for a new client, distributing the network address information populated in the downstream policy information at the first node to the second node via use of a notification message distributed according to a system routing protocol (col. 4 lines 32-67).

As to claim 12, Balay teaches the method as in claim 11, wherein the system routing protocol is based on BGP (Border Gateway Protocol) (col. 4, lines 32-67).

As to claims 13-26, they feature elements for performing the same method performed in claims 1-12 and are therefore rejected for the same reasoning as claims 1-12.

As to claims 27 and 28, upstream and downstream are relative terms. The claims do not specify which elements downstream and upstream are in reference to. In other words all links

can be considered downstream and upstream depending on which elements are being considered. Because claims 27 and 28 do not really provide any further limitations they are rejected for the same reasoning as claims 1 and 13.

Claims 1, 3-13, 15-24, and 27-28 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 03/073707 by Backman et al. (part of IDS filed 1/28/2005).

Claims 1-26 are rejected for the same reasoning presented in the International Search Report supplied as IDS on 1/28/2005. The reasoning provided in the search report is incorporated by reference to this office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442